



NEW YORK
CITY BAR

Contact: Maria Cilenti - Director of Legislative Affairs - mcilenti@nycbar.org - (212) 382-6655

**REPORT ON LEGISLATION BY THE
COMMITTEE ON MATRIMONIAL LAW**

A.11447

M. of A. Weinstein

AN ACT to direct the law revision commission to review and assess the divorce and maintenance laws of the state.

THIS LEGISLATION IS APPROVED

The New York City Bar Association's Committee on Matrimonial Law supports A.11447. This legislation would direct the Law Revision Commission (the "Commission") to review and assess the impact and effectiveness of New York State's divorce and maintenance laws. The Commission would be charged with studying New York's divorce and maintenance laws and making recommendations to the legislature about suggested revisions and improvements to the current laws. As a group of practicing matrimonial lawyers in New York City representing clients from all income strata, the Committee hopes to have the opportunity to recommend certain issues for the Commission's consideration, including: the impact of remarriage on maintenance awards, the valuation of professional licenses, the appropriate level of an income cap on the imposition of maintenance guidelines, the interplay between equitable distribution and maintenance awards, and reimbursement alimony versus enhanced earning capacity.

While the City Bar supports A.11447, we do not feel that the Commission's study need delay the passage of no-fault divorce legislation (A.9753-A), which has an independent basis for passage: *i.e.*, the need to end the charade of requiring one party to accept fault or cast blame on the other party in order to obtain a divorce – even if the demise of the marriage was without fault of either party. When a marriage has truly failed, parties in New York should be permitted to end that marriage with dignity and without being forced to impugn each other's character. When domestic violence is involved, the abuser should not be able to hold up divorce proceedings by contesting fault. Moreover, A.11447 provides that all economic concerns, including spousal support and maintenance, must be resolved *before* a judgment of divorce can be entered. This will protect the economic interests of both parties, particularly if Governor Paterson signs A.7569/S.4532 into law so that both parties will be timely represented by competent counsel.

The Commission is the appropriate body to examine how spousal support and maintenance are resolved under current law and provide recommendations for improvement that would apply to all divorces, including no-fault divorces, should the legislature decide to finally pass this long-overdue bill.

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